

AF/2800



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent
Docket No: 50371US011 #30

In re Application of:
Andrew J. Ouderkirk et al.
Serial No.: 09/013,819
Filed: January 27, 1998
For: OPTICAL POLARIZER

Group Art Unit: 2872

Examiner: Shafer, R.

Response
Brief
J. McNeill
6/11/02

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, Washington, DC 20231 on:

May 30, 2002
Date

Heather M. Sumter
Signature: Heather M. Sumter

FILING OF AMENDED BRIEF UNDER 37 CFR 1.192(d)

Box AF
Commissioner for Patents
Washington, DC 20231

Dear Sir:

The following remarks are submitted in response to the Communication from the Examiner dated May 7, 2002. The Examiner has stated that the Notice of Appeal filed on February 15, 2002, is defective because the brief does not contain a statement of the status of all claims, the brief improperly states that an amendment was filed on September 26, 2000, and the brief fails to contain a concise explanation of the claimed invention.

Enclosed herewith in triplicate please find an amended brief. It is respectfully submitted that the amended brief overcomes the Examiner's objection.

Respectfully submitted,

Registration Number 37,988	Telephone Number 651-733-6649
Date May 30, 2002	

By

William D. Miller

Office of Intellectual Property Counsel
3M Innovative Properties Company
P.O. Box 33427
St. Paul, Minnesota 55133-3427
Facsimile: (651) 736-3833

RECEIVED
JUN 10 2002
TC 2800 MAIL ROOM



TABLE OF CONTENTS

REAL PARTY IN INTEREST	3
RELATED APPEALS AND INTERFERENCES	4
STATUS OF CLAIMS	5
STATUS OF AMENDMENTS	6
SUMMARY OF THE INVENTION	7
ISSUES ON APPEAL	8
GROUPING OF CLAIMS	9
ARGUMENTS OF APPELLANTS	10
APPENDIX	

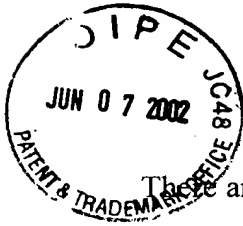
RECEIVED
JUN 10 2002
TC 2800 MAIL ROOM



REAL PARTY IN INTEREST

The real party in interest is 3M Company of St. Paul, Minnesota and its affiliate 3M Innovative Properties Company of St. Paul, Minnesota.

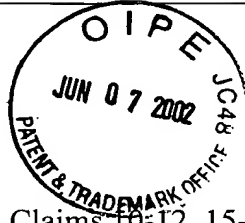
RECEIVED
JUN 10 2002
TC 2800 MAIL ROOM



RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences.

RECEIVED
JUN 10 2002
TC 2800 MAIL ROOM

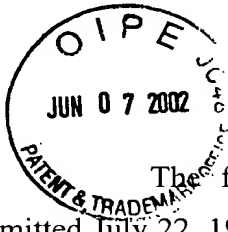


STATUS OF CLAIMS

Claims 10-12, 15-43 and 44-47 have been cancelled from the application.

Claims 1-9, 13, 14, and 48 are pending in the application. Claims 1-9, 13, 14, and 48 stand finally -rejected and are being appealed.

RECEIVED
JUN 10 2002
TC 2800 MAIL ROOM



STATUS OF AMENDMENTS

The following claim amendments have been entered: (1) amendment submitted July 22, 1999, with respect to claims 1, 3, 5, and 14; (2) amendment submitted June 20, 2000, with respect to claim 13; and (3) amendment submitted December 1, 2000, with respect to claim 48. Claims 4 and 6-9 have not been amended since the original filing. An amendment to claim 2 to correct the obvious dependency error is submitted concurrently herewith. The claims as amended (including the proposed amendment to claim 2) are reproduced in Appendix A.

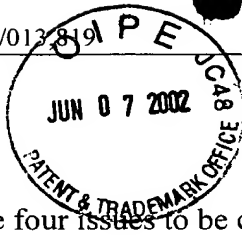
RECEIVED
JUN 10 2002
TC 2800 MAIL ROOM



SUMMARY OF THE INVENTION

The present invention is drawn to an optical polarizer (pg. 2, lines 12-24; pg. 4, lines 21-24; and Fig. 1, element 10) that includes in combination both a reflective polarizing component (Fig. 1, element 12) and an absorbing polarizer component (Fig. 1, element 11). The reflective polarizing component and the absorbing polarizer component are disposed in close proximity to each other (pg. 5, lines 11-13).

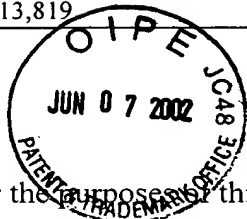
RECEIVED
JUN 10 2002
TC 2800 MAIL ROOM

**ISSUES ON APPEAL**

There are four issues to be considered, namely:

- Issue I** Whether the Examiner was incorrect in rejecting claims 1, 8, 9, 14 and 48 under 35 U.S.C. § 102 as being anticipated by Kondo et al. ('526);
- Issue II** Whether the Examiner was incorrect in rejecting claim 2 under 35 U.S.C. § 102 as being anticipated by Kondo et al. ('526);
- Issue III** Whether the Examiner was incorrect in rejecting claims 1, 5, 7 and 48 under 35 U.S.C. § 103 as being obvious over Matsumoto ('626) in view of Schrenk et al. ('949); and
- Issue IV** Whether the Examiner was incorrect in rejecting claim 13 under 35 U.S.C. § 103 as being obvious over Kondo ('526).

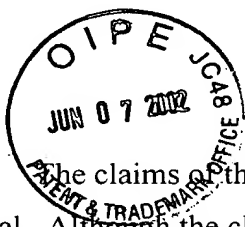
RECEIVED
JUN 10 2002
TC 2800 MAIL ROOM



GROUPING OF CLAIMS

For the purposes of this appeal the claims are grouped as follows: Claims 1, 3-9, 14 and 48 (Group 1); Claim 2 (Group 2); and Claim 13 (Group 3). Each Group stands or falls separately.

RECEIVED
JUN 10 2002
TC 2800 MAIL ROOM



ARGUMENTS OF APPELLANTS

The claims of the various Groups are treated separately for the purposes of this appeal. Although the claims in Groups 2 and 3 depend from claims in Group 1, they present further claim elements that are different and distinct. These distinctions will be evident from the discussion that follows.

Issue I

The present invention is directed to an optical polarizer. The optical polarizer includes a reflective polarizer that operates to substantially reflect light of a first polarization state and transmit light of a second polarization state. An absorbing polarizer is disposed in close proximity to the reflective polarizer. In this regard, the claims in Group 1 recite a “reflective polarizer” that “substantially reflect[s] light having the first polarization state” and “substantially transmits[s] light having the second polarization state.” (See e.g., claim 48)

The Kondo reference does not teach a reflective polarizer as claimed in the present application. Element 7 of the Kondo reference, which was cited by the Examiner as teaching the reflective polarizer, is not a reflective polarizer. Rather element 7 operates to convert two polarization states to the same polarization state while the light is transmitted through the element. More particularly, one polarization state (depicted as p-pol) is waveguided through a birefringent Medium I and exits element 7 on the opposite side. A second polarization state (depicted as s-pol light) also transmits through element 7 and is converted from the second polarization state (s-pol) to the first polarization state (p-pol) by the optically active Medium II. All light is transmitted through the element. This type of element is commonly referred to as a polarization converter. Hence, contrary to the Examiner’s assertion, Kondo does not teach an element that substantially reflects light having the first polarization state as claimed by applicants.

For the above reason, the rejection under Section 102 that Kondo anticipates the claims of Group 1 cannot be maintained and should be overturned.

RECEIVED
JUN 10 2002
TC 2800 MAIL ROOM

Issue II

Claim 2 (Group 2) also stands rejected by the Examiner as being anticipated by Kondo. Claim 2 recites that the “absorbing polarizer is formed integral with the polymeric reflective polarizer.” This claim is directed to those embodiments of the present invention where the reflective polarizer and the absorbing polarizer are made as part of the same process. For example, the absorbing polarizer may be made by incorporating dichroic dyestuff into one or more layers or skins of a multilayer reflective polarizer or by coating a polyvinyl alcohol onto a surface of the reflective polarizer prior to orientation. In this manner, the reflective polarizer and the absorbing polarizer can be concurrently formed.

In Kond, a dichromatic polarizing plate 13 is laminated to the “polarization converter” element 7 described above. Even if element 7 were considered a reflective polarizer, there is no teaching that the element 13 could be “formed integral” with element 7. Therefore, the rejection under Section 102 that Kondo anticipates the claim 2 (Group 2) cannot be maintained and should be overturned.

Issue III

Claims 1, 5, 7 and 48 (Group 3) are rejected in the Final Office Action as being obvious from the combination of the Matsumoto (JP ‘626) and Schrenk et al. (‘949) references. The claims in this Group recited that the absorbing polarizer is “disposed in close proximity” to the reflective polarizer “to directly receive light” that is not reflected by the reflective polarizer.

The Office Action states that the Matsumoto reference teaches all of the claim elements “except for explicitly stating that the reflective polarizer includes first and second polymeric materials wherein at least one of the first and second materials is birefringent.” The Examiner is incorrect in this characterization of Matsumoto. The absorbing polarizer 9 described in the Matsumoto reference is provided on the opposite side of a liquid crystal display from the wire grid polarizer described therein. Even if it were proper to substitute the reflective polarizer of the Schrenk reference for the wire grid polarizer of Matsumoto, the claimed elements would still not be found in the combination. The liquid crystal cell (3, 4, 5 and 6) of Matsumoto selectively alters polarization states of some of the light transmitted through the wire grid. The absorbing polarizer acts on this

selectively altered light to produce an image. Such a construction does not teach or suggest an absorbing polarizer disposed in close proximity to the reflective polarizer to directly receive light not reflected by the reflective polarizer. The presently claimed invention is drawn to a combination of elements that work together. The wire grid and absorbing polarizer perform distinct functions and do not satisfy the claimed structure.

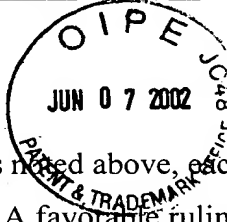
For the above reasons, the rejection under Section 103 that Matsumoto and Schrenk can be combined to render claim 1, 5, 7 and 48 (Group 3) obvious cannot be maintained and should be overturned.

Issue IV

Claim 13 is rejected under Section 103 as being obvious over the teachings of Kondo. Claim 13 depends from claim 1 and recites that “the absorbing polarizer is positioned to provide antireflection on at least one side of the reflective polarizer.” This construction has particular advantages, for example, in direct view LCD displays. As described in the present specification, the reflective polarizer can be used in such displays to increase the display brightness by reflecting light off of one side of the reflective polarizer. At the same time, the viewing side of the reflective polarizer element does not reflect light and degrade display performance.

Kondo does not teach or suggest the combination of a reflective polarizer and an absorbing polarizer when the absorbing polarizer is used to provide antireflection on one side of the reflective polarizer. As noted above, element 7 of Kondo is not a reflective polarizer and does not reflect light. Thus light incident on element 7 is transmitted through the element (while converting one polarization state to the other). Accordingly, there is no need for antireflection in the context of claim 13.

There is no teaching or suggestion in Kondo of providing antireflection on one side of a reflective polarizer to produce an optical polarizer that reflects light from one side and not the other. Accordingly, the rejection under Section 103 that Kondo renders claim 13 (Group 4) obvious cannot be maintained and should be overturned.

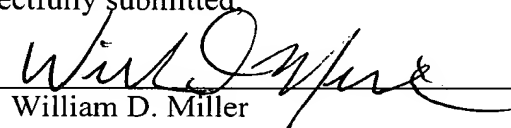
CONCLUSION

As noted above, each ground of rejection cannot be maintained and should be reversed. A favorable ruling is requested.

Registration Number 37,988	Telephone Number 651-733-6649
Date	

Respectfully submitted,

By


William D. Miller

Office of Intellectual Property Counsel
3M Innovative Properties Company
P.O. Box 33427
St. Paul, Minnesota 55133-3427
Facsimile: (651) 736-3833